

**IMPROVING LOCAL ACCOUNTABILITY CONSULTATION
CHANGES TO OVERVIEW AND SCRUTINY POWERS**

(Report by Head of Administration)

1. Introduction

- 1.1 At the Panels' meetings in February, a report was considered on changes to overview and scrutiny introduced by the Local Government and Public Involvement in Health Act 2007 and a consultation paper on the Councillor 'call for action' and local petitions. The Panels were advised that further information would be submitted to them on the implementation of the legislation as this became available.
- 1.2 The Department for Communities and Local Government (CLG) has now issued a further consultation paper on the changes, in the light of the publication of the recent White Paper 'Communities in Control'. The consultation asks a number of questions, in response to which suggested answers are contained in the attached annex. The Panels' and Cabinet's views are sought on the changes proposed and the attached response.

2. Communities in Control White Paper

- 2.1 The White Paper builds on the changes introduced in the 2007 Act and contains the following proposals for overview and scrutiny –
- Encouraging more creative involvement of the public, for example by holding deliberative events
 - Moving meetings into the community and considering webcasting
 - Greater public involvement in suggesting and selecting topics for review
 - Making information more readily available and accessible on websites and at council offices
 - Further enhancing the powers of overview and scrutiny committees to require information from partners on a broader range of issues
 - If necessary providing councils in two tier areas with a power to combine resources in 'area' scrutiny committees
 - Requiring some dedicated scrutiny resource in county and unitary councils.
- 2.2 Further proposals of relevance to overview and scrutiny are –
- Increasing the visibility of officers of local public bodies so that they are open to public scrutiny and questioning by local communities
 - A new right to petition to hold local officers to account
 - A new duty on Councils to respond to all petitions, including electronic petitions, relating to local authority functions or other public services where the Council shares delivery responsibilities.

3. Improving Local Accountability Consultation

- 3.1 CLG are planning a series of consultation papers to implement changes introduced by the 2007 Act and the White Paper. In addition to the improving

local accountability paper, the others are the making and enforcement of byelaws, a revised code of conduct for Members, on-line petitioning for mayors, time off entitlements for membership of Councils and other voluntary organisations, and a review of the code of recommended practice on local government publicity.

3.2 The particular issues on which views are sought in the current paper are –

- Developing and strengthening overview and scrutiny by implementing the provisions of the 2007 Act to enhance scrutiny powers in relation to Local Area Agreement partners and the delivery against targets and in particular regulations in respect of –
 - Overview and scrutiny committees requiring information from partner authorities
 - Publication of scrutiny reports, recommendations and responses
 - Establishment of joint county and district overview and scrutiny committees
 - Enhancing the powers of district overview and scrutiny committees
- How best to take forward the proposals in the White Paper to raise the profile of overview and scrutiny
- Increasing the visibility and accountability of local public officers
- Facilitating the work of councillors by enabling them to use information and communications technology to participate in meetings and vote remotely.

4. Other Proposals

4.1 Members may recall that the report in February also referred to the changes introduced in the Police and Justice Act 2006 which required every authority to have a crime and disorder committee to scrutinise the discharge of crime and disorder functions by other responsible authorities. Implementation of the proposals has been delayed pending the Flanagan report on policing and the publication of a Green Paper on the Police.

5. Conclusion

5.1 The Government is committed to raising the profile of overview and scrutiny as part of a series of measures to encourage greater community involvement in local decision making. Several of the initiatives have already been either tried or implemented by the Council but Members will be aware of the difficulty in engaging with the public other than in cases where a high profile issue has raised local concern.

5.2 The Panels and Cabinet will be updated as the anticipated regulations and guidance are issued.

6. Recommendation

- 6.1 Suggested responses to the questions posed in the consultation paper are made in the attached annex and it is

RECOMMENDED

that the Panels and Cabinet consider and endorse the responses for submission to CLG as part of the implementation process of the 2007 Act and the White Paper.

Background Papers:

Crime and Justice Act 2006

Local Government and Public Involvement in Health Act 2007

Communities in Control White Paper

Improving Local Accountability White Paper

Report to Overview & Scrutiny Panels in February 2008 on Local Petitions and Calls for Action

Contact Officer

Roy Reeves, Head of Administration

Tel: (01480) 388003

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Questions Raised and Suggested Answers

Question 1

This deals with the arrangements for overview and scrutiny committees to require information from partner authorities. This enables a district council committee to seek information from the county council as lead authority or any partner in an LAA that relates to a target connected with the district's area and functions. CLG propose limited regulation on the release and withholding of information. Release refers to information that relates to LAA targets and withholding concerns data protection, commercial confidentiality and information already in the public domain. No time limits are proposed for responses to requests nor how requests can be kept to manageable proportions which will be matters of local discretion. Comments are invited on the proposals.

Suggested Response

While local discretion and flexibility is welcomed, it is important that some mechanism is in place to ensure that partners do co-operate in providing information to the detail required and in a timely manner. Since Freedom of Information requests are time limited to 20 working days with an appeal to the Information Commissioner where a public authority fails to comply, it would not be unreasonable for the same sanctions to be applied in this case.

Question 2

The 2007 Act specifies the arrangements for the withholding of exempt and confidential information when overview and scrutiny reports are published and an authority responds. This does not include an executive and the question raised is whether there is agreement to the extension of the same principle to local authority executives.

Suggested Response

Agreed

Question 3

The 2007 Act enables the establishment of joint county and district overview and scrutiny committees. The consultation paper invites comments on the extension of existing overview and scrutiny powers to joint committees, while recognising the need for co-ordination to ensure that duplication does not arise in terms of the scrutiny of partners by a number of overview and scrutiny committees.

Members will be aware that joint scrutiny already exists in Cambridgeshire. In terms of health scrutiny, district councillors are co-opted to the relevant County scrutiny committee and a joint accountability committee has been formed to scrutinise the LAA board, Cambridgeshire Together. A separate report deals with those joint arrangements elsewhere on the agenda.

Suggested Response

The extension of scrutiny powers to joint committees is welcomed. The joint committee however should not be able to direct the work of scrutiny committees in individual authorities nor be able to exercise any veto over legitimate lines of enquiry into the achievement of LAA targets or the performance of partners. It should be a matter for local discretion as part of the agreed terms of reference between the local authorities concerned as to how the joint committee might co-ordinate scrutiny activities, respond to proposals by individual authorities for an area based study or suggest that a study is undertaken by an individual authority's scrutiny committee.

Question 4

Regulations are proposed to implement the provisions in the 2007 Act to give district scrutiny committees in two tier areas similar powers to lead councils, i.e. county councils. As such, they can make reports and recommendations to the county council on local improvement targets and the county must respond within 2 months. Other authorities will be required to have regard to such reports and recommendations. While it will be for a district committee to determine its programme of work, it should have regard to scrutiny work planned by the lead council and any joint committee. To minimise potential duplication, the requirements for a county council to respond and partner authorities to have regard to a report and recommendations will only apply to matters where a joint committee has not already reported. Comments are invited.

Suggested Response

The proposals to extend similar powers to district scrutiny committees are supported. While the need to avoid duplication is recognised, a timescale should be applied to the restriction preventing a district committee from scrutinising a subject already considered by a joint committee of say 2 years.

Question 5

This only applies to authorities of less than 85,000 population.

Question 6

CLG are proposing to introduce a power for county and district councils to combine scrutiny resources in area scrutiny committees if they wish to do so. Comments are invited on what issues should be considered as part of any new power.

Suggested response

While there is a role for an area committee in considering issues of county wide significance and in scrutinising LAA targets and performance, it should not circumvent the ability of district committees to scrutinise individual subjects relevant to that authority's area within the general power of promoting economic, social and environmental well-being. An area committee's co-ordinating responsibility should be limited to an advisory capacity only.

The primary role of an area committee should be to hold to account an LAA Board but it will be powerless to do so unless it has the ability to call in decisions of the Board. If an area committee cannot do so and it is impractical for scrutiny committees of individual authorities to exercise this function, a Board cannot be effectively held to account.

Question 7

CLG propose that county, unitary and borough councils are required to make provision for a dedicated scrutiny resource to support the overview and scrutiny

function. A similar requirement is not extended to district councils, presumably because of the resource implications for smaller authorities.

Suggested response

No comment.

Question 8

CLG want to introduce an appeals mechanism if petitioners are not satisfied with an authority's response to a petition. As overview and scrutiny committees are independent of the executive, CLG propose that they act as the appeals body with a remedy of triggering a debate at full council if they consider the response to be not sufficiently adequate. Comments are invited about the practicality of this approach.

Suggested response

The approach is unnecessarily bureaucratic. Authorities will have existing mechanisms for dealing with petitions. In the case of Huntingdonshire, petitions containing over 50 signatures are already presented to Council and those with over 10 signatures to a scrutiny panel. It should be a matter for the discretion of individual authorities to decide upon the most appropriate method to deal with a petition, as long as there is an assurance that this will be considered in a member forum.

Question 9

The White Paper seeks to achieve a consistency of approach in public services to formalise arrangements to require chairmen and chief executives to attend a public hearing in the community at regular intervals every three or four months to explain their actions and listen to the views and concerns of local people. The requirement to attend such meetings should form part of the job descriptions of the chairman and chief executive and the question raised is whether those responsible for the job descriptions should determine the precise arrangements for the attendance of those persons.

Suggested response

Regular meetings are unlikely to attract high attendances, even if they are co-ordinated so that several bodies are represented. If the area covered is too wide geographically, members of the public will be less likely to travel and to identify themselves with the bodies in question. The public tend to be more interested in local issues of topical significance such as a threatened hospital closure which does attract high attendances at public meetings. The result of the current proposal could be a plethora of poorly attended meetings but with leading figures present which would be an inefficient use of resources and time. If public bodies are to be held to account by the public, this would be best achieved through the strengthening of the scrutiny role of local authorities and the use of petitions to raise issues of concern.

If CLG intends to proceed with this proposal, it is preferable for the precise arrangements for public meetings and the determination as to who should attend to be dealt with by the public bodies themselves.

Question 10

The White Paper proposes a new right for people to petition to hold officers to account with senior officers working for a public body required to attend a public meeting. CLG therefore propose that the lead council in each LAA area should agree with partners a scheme for petitions to hold officers to account. The scheme should complement local petitions arrangements, set out the officers or category of officers to which it would apply, specify the petition criteria, the bodies affected and

how they will respond, and the arrangements for a hearing. Comments are invited on the proposal and the practical implications.

Suggested response

Officers implement rather than set policy. If representatives of public bodies are to be held to account in this way by the public, it is the decision makers who should be required to attend to respond to concerns. The opportunity to petition for a hearing is a much more tangible and meaningful way of ensuring public engagement than scheduled, poorly attended meetings. If the scheme is to cover the whole of an LAA area, there should be opportunities for some discretion to allow for local circumstances. The scheme also should enable issues that are local in nature to be dealt with through district scrutiny committees as opposed to the broader LAA area.

Question 11

Should the Government specify certain minimum standards for the scheme to hold public officers to account? These might include the timescale for the implementation of a scheme, which officers or category of officers should be required to attend and which local service providers should be involved. CLG suggest that officers should be restricted, in local government terms, to statutory officers and/or non-statutory officers as defined in legislation.

Suggested response

This is a subject that is best left to local discretion.

Question 12

CLG propose that a local authority and its partners should agree on which local service providers and agencies the scheme should apply to, subject to any statutory minimum requirements. Comments are invited as to whether the scope of the scheme should be agreed locally and whether this will be an effective means of empowering communities.

Suggested response

This is a subject that is best left to local discretion. There is little confidence that this will be an effective means of empowering communities and it is unlikely that it will prove popular, other than on those occasions when there is a local issue of concern.

Question 13

The report of the Councillors Commission recommended the introduction of virtual meetings with Members being able to take part and vote in meetings remotely. The Government intend to legislate to introduce the measure in the Community Empowerment, Housing and Economic Regeneration Bill. Authorities will be able to opt in to remote voting, the conditions being that at least one Member must be physically present at the meeting and members of the public present at the meeting must be able to witness what is happening. Comments are invited on the proposal.

Suggested response

While this may help overcome problems of time and distance, the practicalities should not be under-estimated and it should be at the discretion of individual authorities as to whether they choose to adopt this measure.